

**IN THE UNITED STATES PATENT OFFICE**

In re application of: Bernard Charles Sherman

Serial No.: 09/783,969

Our Ref.:

PT-1858001

**CUSTOMER NO. 23607**

Filed: February 16, 2001

Examiner: Vickie Y. Kim

Group Art Unit: 1614

For: EMULSION PRECONCENTRATE COMPRISING A CYCLOSPORIN  
AND ACETYLATED MONOGLYCERIDE

---

**PETITION TO HAVE THE PATENT OFFICE  
WITHDRAW THE FINAL REJECTION  
UNDER Manual of Patent Examination Procedures 706.07(c)&(d)**

The Honorable Commissioner of Patents  
UNITED STATES PATENT OFFICE  
2011 South Clark Place  
Crystal Plaza 2, Room 1B03  
Arlington, Virginia U.S.A. 22202

Dear Sir:

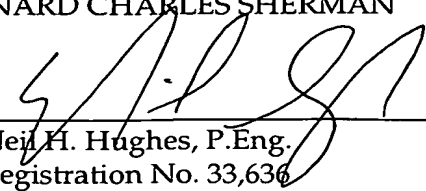
Applicants hereby request that the Final Rejection dated March 28, 2002 issued in the prosecution of this Application be withdrawn under M.P.E.P. 706.07(c) and (d) as it was premature to issue the said Final Action in view of the fact that the primary reference cited as prior art against Applicant's claims, namely Hong, et al (U.S. Patent No. 6,063,762) is not bona fides prior art in that Applicant's priority filing date of April 29, 1997 predates the Foreign Application Priority Data (Rep. of Korea, 97-66454) for Hong, et al of December 5, 1997. It is therefore requested that the holding of the Examiner's action of March 28, 2002 as being FINAL be reconsidered and withdrawn.

In the event that a fee is required for this request Applicant's Agent authorizes the Commissioner to access Deposit Account No. 08-3255 in the amount of the fee of \$130.00 U.S. to cover the fee set out in 37C.F.R. §1.17(h). Should this not be the case then it is requested that Applicant's Agent be so advised. If there is any deficiency or surplusage of the fee enclosed, please obtain any such deficiency from or credit the surplusage to Deposit Account No. 08-3255 and advise Applicant's Agent.

Respectfully submitted,

BERNARD CHARLES SHERMAN

By

  
Neil H. Hughes, P.Eng.  
Registration No. 33,636  
175 Commerce Valley Dr. West, Suite 200,  
Thornhill, Ontario L3T 7P6 CANADA

September 26, 2002

Agent for Applicant  
(905) 771-6414

RECEIVED  
OCT 02 2002  
TECH CENTER 1600/2900